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Association  
Constitution

Boston

1899

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# CONSTITUTION

OF THE

## BOSTON CLEARING HOUSE ASSOCIATION.

1899.

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CONSTITUTION

OF THE

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# BOSTON CLEARING HOUSE ASSOCIATION.

## RULES AND REGULATIONS REGARDING COLLECTIONS IN NEW ENGLAND OUTSIDE THE CITY OF BOSTON.

This Association establishes the following rules and regulations regarding collections in New England outside the city of Boston, by members of the Association, or banks or trust companies or others clearing through such members, and the rates to be charged for such collections, and also regarding enforcement of the provisions thereof; and the same shall be in force on and after January 10, 1900.

SECTION 1. These rules and regulations shall apply to all members of the Association, and to all banks or trust companies or others clearing through such members. The parties to which the same so apply are hereinafter described as collecting banks.

SECTION 2. For all checks and drafts from whomsoever received, drawn upon any New England bank or trust company or banking house or other banking institution, which does not pay checks and drafts drawn upon itself and sent through the Boston Clearing House by remitting therefor on receipt thereof *promptly* at par checks upon some member of the Boston or New York Clearing House, or upon a banking institution clearing through some such member, the collecting banks shall charge not less than one-tenth of one per cent. of the amount of such checks and drafts respectively.

SECTION 3. In case the charge upon any check or draft at the rate above specified does not equal ten cents, the collecting bank shall charge not less than that sum; but all checks and drafts received from any one depositor or correspondent on the same day, and payable by the same institution, may be added together and treated as one item for the purpose of fixing the amount to be charged.

SECTION 4. The charges herein specified are in all cases to be collected at the time of deposit or not later than the tenth day of the following calendar month. No collecting bank shall directly or indirectly allow any abatement, rebate or return, for or on account of such charges, or make in any form any compensation therefor.

SECTION 5. In case any member of the Association shall learn that these rules and regulations have been violated by any of the collecting banks it shall immediately report the facts to the chairman of the Clearing House Committee, or in his absence, to the manager of the Clearing House. Upon receiving information from any source that there has been a violation of the same, said chairman, or in his absence, said manager shall call a meeting of the committee. The committee shall investigate the facts and determine whether a formal hearing is necessary. In case the committee so concludes, it shall instruct the manager to formulate charges and present them to the committee. A copy of the charges, together with written notice of the time and place fixed for hearing regarding the same, shall be served upon the collecting bank charged with such violation, which shall have the right at any hearing to introduce such relevant evidence and submit such argument as it may desire. The committee shall hear whatever relevant evidence may be offered by any person and whatever arguments may be submitted, and shall determine whether the charges are sustained. In case it reaches the conclusion that they are, the committee shall call a special meeting of the Association and report thereto the facts with its conclusions. If the report of the committee is approved by the Association, the collecting bank charged with such violation shall pay to the Association the sum of one thousand dollars; and in case of a second violation of these rules and regulations any collecting bank may also, in the discretion of the Association, be excluded from using its privileges directly or indirectly, and, if it is a member, expelled from the Association.

SECTION 6. Every collecting bank, as defined in Section 1 of these rules and regulations shall forthwith adopt, by its board of directors, a resolution in the following terms, and file a certified copy thereof with the Association as evidence as therein specified:—

*Whereas*, This corporation has acquired the privilege of clearing and making exchange of its checks through the Boston Clearing House Association, and is subject to its rules and regulations, now, therefore, *BE IT RESOLVED* that this corporation hereby in all respects assents to and agrees to be bound by and to comply with all rules and regulations regarding collections outside of the city of Boston which may be established pursuant to the Constitution of said Association, and that the president of this corporation is hereby instructed to file a certified copy of this resolution with the Clearing House Association as evidence of such assent and agreement on the part of this corporation.

23 Apr 1919

## CONSTITUTION.

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THE undersigned Banks in the city of Boston, for the purpose of effecting a more perfect and satisfactory settlement of the daily exchanges and collection of checks and other items, and of the balances resulting therefrom, hereby associate together for that purpose, and agree upon the following Articles of Association:—

SECTION 1. The name of the Association shall be the BOSTON CLEARING HOUSE ASSOCIATION.

SECT. 2. The objects of the Association are the effecting at one place and one time of the daily exchanges between the several Associated Banks, and the

payment at the same place of the balances resulting from such exchanges, and the collection of checks and other items drawn upon and payable by banks, bankers and trust companies throughout the New England States, and the distribution of the proceeds thereof to the members to whom they belong; but the Association shall in no wise be responsible in regard to such exchanges, nor in regard to the balances resulting therefrom, excepting so far as such balances shall be actually paid into the hands of the Manager; nor for the solvency of the banking institutions on which checks and other items entrusted to it for collection may be drawn; nor for the solvency of whatever collecting agents may be employed. The responsibility of the Clearing House is strictly limited to the faithful payment and distribution by the Manager of the money

and checks actually received by him under this Constitution; and should any loss occur while the money is in the custody of the Manager it shall be borne and paid by the Associated Banks in the same proportion as the expenses are to be borne and paid, as is herein-after provided.

And in making collections outside of Boston, should any loss be occasioned by the error or neglect of any Clearing House employee, such loss shall be borne and paid in the same proportion as the expenses of collecting New England items outside of Boston are to be borne and paid, as provided in section 20.

SECT. 3. Each Bank belonging to the Association may be represented at all meetings thereof by the President or some other Director, or the Cashier

thereof, as each Bank may determine, and shall be entitled to one vote.

SECT. 4. The Annual Meeting of the Association shall be held at the Clearing House on the second Monday in April in each year at eleven o'clock in the forenoon, when a Chairman and Secretary shall be chosen by ballot who shall hold their offices for one year and until others are chosen in their stead; and, whenever at any meeting either of them shall be absent, a Chairman or Secretary *pro tempore* shall be chosen. There shall be chosen at each Annual Meeting a Nominating Committee of three persons, who shall, at least two weeks before the Annual Meeting next after their appointment, present to each Bank belonging to the Association a list of nominees for officers for the succeeding year.

SECT. 5. At every Annual Meeting there shall also be chosen by ballot a standing committee of five Presidents or other Directors of Banks belonging to the Association (not more than one member of the committee, however, from any one Bank), to be called the Clearing House Committee, who shall hold their offices for one year and until others are chosen in their stead, whose duty it shall be to procure suitable rooms for the Clearing House; to provide proper books, stationery, furniture, fuel, and whatever else may be necessary for the convenient transaction of business thereat; to appoint a Manager and such other clerks or officers as may be necessary; to establish rules and regulations to be observed at the Clearing House in cases not specially provided for in these General Articles; such appointments, and such rules and

regulations, to be subject to the approval of the Association; and generally to supervise the whole business and affairs of the Clearing House.

They shall also have charge of the funds of the Association, and shall draw on each Bank for its quota of the expenses. They shall, at the first meeting of the Association after their election, submit detailed estimates of the expenditures which will be required for the then current year, and shall at every Annual Meeting present a full and correct account of the expenditures of the then past year. Any vacancies which may occur in the Committee during the year shall be filled at the next meeting of the Association which takes place after such vacancy occurs.

SECT. 6. The Committee shall call special meetings of the Association

when thereto requested in writing by any five of the Associated Banks, and may call such meetings at other times whenever they shall deem it expedient; and all meetings shall be called by leaving a written or printed notice thereof at the several Banks belonging to the Association.

SECT. 7. At all meetings a quorum for the transaction of business shall be one-third of all the Associated Banks.

SECT. 8. The salary of the Manager shall always be fixed by the Association, and the salaries of the Clerks and Porters by the Committee. The Manager shall give bonds, with sureties, in the sum of ten thousand dollars; and the Clerks and Porters shall give bonds, with sureties, in the sum of five thousand dollars each, all of which bonds shall be approved by the said Committee.

SECT. 9. The Manager, under the control of the Committee, shall have the immediate charge of all the business at the Clearing House, so far as relates to the manner in which the business shall be transacted; and the Settling Clerks and Porters of the several Banks, as well as the Clerks belonging to the House, shall, while at the Clearing House, be under his direction. The Manager shall immediately report to the Clearing House Committee any apparent irregularity in the dealings of any Bank belonging to the Association that comes to his notice, and receive the instructions of the Committee in regard thereto.

SECT. 10. The Committee shall have power to remove the Manager or any of the Clerks, whenever, in their opinion, the interests of the Association shall require it.

SECT. 11. The hour for making the exchanges at the Clearing House shall be ten o'clock A.M. each day. At quarter-past twelve o'clock P.M., except on Saturday, and then at half-past eleven o'clock A.M., the Debtor Banks shall pay to the Manager, at the Clearing House, the balances due from them respectively, either in coin or in such other currency as the laws of the United States shall require, or in such certificates as shall be authorized by the Clearing House Association, excepting sums less than one thousand dollars, which may be paid in bills of the Debtor Banks.

At half-past one o'clock P.M. each day but Saturday, and then at twelve o'clock M., the Creditor Banks shall receive from the Manager, at the same place, the balances due to them respectively, provided all the balances due

from the Debtor Banks shall then have been paid to him.

New England checks not redeemable through the Boston Clearing House may be deposited with the Manager for collection at such hours and under such regulations as shall be ordered from time to time by the Clearing House Committee, and the proceeds of such items when collected shall be distributed through the regular morning settlements in such manner and at such times as may be prescribed by the Clearing House Committee.

SECT. 12. Should any Bank or Banks fail to pay to the Manager the balance or balances due at the Clearing House at the proper hour, the Manager shall cause a new settlement to be made, and new balances to be ascertained, by eliminating from the settling-sheet of

each and every Bank all of the amounts charged thereon to the defaulting Bank or Banks, and all of the amounts credited thereon to the defaulting Bank or Banks, and also all of the amounts, both debit and credit, on the settling-sheet or settling-sheets of the defaulting Bank or Banks. The new balances, as thus ascertained, shall be the balances to be settled as provided in section 11; and in case any Bank or Banks shall have paid to the Manager the balance or balances as at first ascertained, such Bank or Banks shall at once make adjustment with the Manager.

Immediately after such new settlement shall have been made, each and every Bank shall deliver to the Manager all of the checks and other items which were received from the defaulting Bank or Banks on the day of default, or in lieu thereof the money therefor, which

checks or other items, or the money, as the case may be, the Manager shall tender to the defaulting Bank or Banks that such checks and other items were received from (such tender to be a sufficient notice of the new settlement), and demand and be entitled to receive *all* of the checks and other items, except those which shall have been previously delivered to him, which the defaulting Bank or Banks had received through the Clearing House on the day of default. The checks and other items received by the Manager from the defaulting Bank or Banks shall then be returned by him at once to the respective Banks from which they originally came.

If any defaulting Bank or Banks shall fail or refuse to return said checks and items when demanded as above, the other Banks may notify their depositors and customers, from whom said checks

and items were received, of the fact of the non-payment and detention of such checks and items, which notification shall be equivalent to the return of such checks and items to the depositors of the same, and the amounts thereof may be charged to their respective accounts; it being understood that they, the said Banks, receive checks and items payable by other Banks, for collection, as agents only, and do not hold themselves liable for any loss or damage which may accrue through the default of any Bank or Banks upon which said checks and other items may be drawn.

SECT. 13. Errors in the exchanges and claims arising from the returns of checks, or other cause, are to be adjusted directly between the Banks which are parties therein, and not through the Clearing House.

Whenever checks which are not good are sent through the Clearing House, they shall be returned by the Banks receiving the same to the Banks from which they were received, as soon as it shall be found that said checks are not good; and in no case shall they be retained on Saturday after twelve o'clock, and on other days after one o'clock.

In case of the refusal or inability of any Bank or Banks to promptly refund to the Bank or Banks presenting such checks, drafts, or other items returned as not good, the Bank or Banks holding them may report to the Manager the amount of the same; and, provided that such report shall be given to the Manager by twelve o'clock of the same day, it shall be the Manager's duty, under the direction of the Clearing House Committee, to take from the settling-sheets of all of the Banks con-

cerned the amount of such checks, drafts, or other items so reported, to re-adjust the Clearing House statement and declare the correct balances, and enforce a settlement in conformity with the change so made. And should any Bank or Banks fail to pay the balance or balances as ascertained by such re-adjustment, the Manager shall still further re-adjust the Clearing House statement, and enforce a settlement, as provided in section 12.

For the purpose of collecting New England items and distributing the funds received in payment thereof, the Clearing House itself may take part in the morning settlements as No. 100, if so ordered by the Clearing House Committee; and whenever checks which are not good are charged against any member of the Association by the Clearing House, such checks shall be returned to the Manager

of the Clearing House as soon as it shall be found they are not good, and in no case shall they be retained on Saturdays after half-past eleven o'clock A.M., nor on other days after one o'clock P.M.; and the Manager shall immediately notify all members of the Association in payment of whose collections such checks shall have been received, and shall reimburse the Bank returning the checks not good by his draft upon the Clearing House to be collected through the exchanges of the following day, and at the same time shall charge against each Bank in the Clearing House its respective proportion of the amount of such checks returned not good.

SECT. 14. Reclamations for errors and deficiencies in coin received at the Clearing House contained in bags or other packages, sealed and marked in

conformity with rules which may be established by the Committee, are to be made by the receiving Banks directly against the Banks whose marks they bear,—the Clearing House not being responsible for the contents of such sealed bags or packages,—and such reclamations should be made in reasonable time.

SECT. 15. Whenever it shall be thought expedient, the Association may appoint one of its members to be a Depositary, in special trust, of such coin as any of the Associated Banks may choose to send to it for safe keeping; and the Depositary Bank shall issue therefor, in proper form, certificates in convenient amounts, which shall be received in payment of balances at the Clearing House, and shall be negotiable only among the Associated Banks. The

coin thus specially deposited shall be the sole property of such Banks as may hold the certificate therefor, and may be withdrawn at any time during banking hours on presentation of the certificates.

SECT. 16. Any Bank in Boston, now a member of the Boston Clearing House Association, may continue its membership therein by assenting and subscribing to these Articles in the manner hereinafter provided.

New members may be admitted to the Association on the recommendation of the Clearing House Committee, either by the written assent of three-fourths of all the members filed with the Manager of the Association, or by vote of three-fourths of all the members of the Association at a meeting called for the purpose; such new member paying an admission fee of two hundred and fifty

dollars, assenting and subscribing to these Articles as hereinafter provided.

No member of this Association shall make exchanges and settlements at the Clearing House for any Bank or other corporation which is not a member, until it shall have obtained the written assent of the Clearing House Committee to do so; and thereafter any member of this Association making such exchanges and settlements shall be liable therefor and in regard thereto in the same manner as it is liable for its own exchanges and settlements, until at least one day's notice in writing shall have been given to the Clearing House Committee; *provided*, however, that any member of this Association shall have the right to return in the manner as provided in section 13,—

1. Checks drawn by any party or parties upon any Bank or other corpora-

tion, for which such member is making exchanges and settlements, which are not good upon the books of such Bank or other corporation.

2. Checks (and other items) drawn on, or checks drawn by, or other obligation of any such Bank or other corporation, the aggregate of which exceeds the amount to the credit of such Bank or corporation on the books of such member of this Association.

SECT. 17. For cause deemed sufficient by the Associated Banks at any meeting thereof, any Bank may be expelled from the Association and debarred from all the privileges of the Clearing House, provided a majority of all the Associated Banks shall vote for such expulsion.

SECT. 18. It shall be the duty of the Clearing House Committee to promptly

investigate cases of apparent infraction of the laws, under which the Banks are organized, by any member of the Association; and the Committee shall have power, in case of urgent necessity, to suspend any Bank from the privileges of the Clearing House until the pleasure of the Association thereupon shall be ascertained, provided such shall be the unanimous opinion of all the members of the Committee present; and, in case of such suspension, the Committee shall forthwith call a general meeting of the Association to take the matter into consideration.

The Clearing House Committee is also empowered, whenever it shall consider it for the interest of the Association, to examine any Bank belonging to the Association, and to require from said Bank securities of such an amount and character as said Committee may deem

sufficient for the protection of the balances resulting from the exchanges at the Clearing House.

SECT. 19. Any member may withdraw from the Association by giving three months' notice in writing of such intention to the Secretary, and first paying its due proportion of all expenses for the current year.

SECT. 20. The expenses of the Clearing House, not including the expense of printing, which shall be apportioned equally, nor the expense of collecting New England items outside of Boston, provided for elsewhere in this section, shall be borne and paid as follows:—

Each Bank shall pay one hundred and twenty-five dollars (\$125) annually, and the remainder of the annual expenses beyond the amount so raised shall be assessed upon the several members of

the Association, *pro rata*, according to the average daily amounts which each bank shall have sent to the Clearing House during the preceding year. Any Bank or other corporation outside of the Clearing House, whose settlements are made through the Clearing House by another Bank as a member of the Association, shall pay such sums annually as may be demanded by the Clearing House Committee.

All additional expenses incurred in the collection of items outside of Boston shall be borne and paid as follows:—

Each Bank availing itself of this collecting agency shall pay an assessment of one hundred dollars (\$100) yearly, in advance. All expenses above the amount thus received shall be divided among the Banks assessed as above, *pro rata*, according to the average daily amounts of New England checks out-

side of Boston which each Bank shall have sent to the Clearing House during the preceding year, excepting the expense of printing which shall be apportioned equally, and excepting further that any special charges for exchange or otherwise shall be paid, *pro rata*, according to the respective amounts, by the Banks owning the checks upon which such charges are made. All question of such charges shall be determined by the Manager of the Clearing House, subject to the revision of the Clearing House Committee.

SECT. 21. These Articles of Association may be amended at any meeting of the Association, by a vote of a majority of the members present, notice in writing of the proposed amendments having been given at a previous meeting, and lodged with the Secretary.

SECT. 22. This Constitution shall go into operation as soon as these Articles shall have received the assent of twenty of the Boston Banks now members of the Boston Clearing House Association; and the officers now serving the Boston Clearing House Association shall hold their offices under this instrument until the time hereinbefore named for the Annual Meeting, when a new election shall take place.

SECT. 23. Assent to these Articles of Association shall be made by the subscription thereto, in duplicate, of the Presidents of the respective Banks or of such other Directors as may be specially appointed for that purpose by any of the Banks; and by such assent the respective Banks, which thereby become members of the Association, shall (and do hereby) agree to conform in all respects

to the requirements of the several Articles of this Constitution, and one copy shall be kept by the Chairman of the Clearing House Committee, and the other by the Secretary of the Association.

SECT. 24. The Clearing House Committee shall direct that the Clearing House be closed for a holiday upon the written application of two-thirds of the Associated Banks.

Boston, April, 1899.

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**END OF  
TITLE**